

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

William Covell, Jr.,

Civil Action No.: _____

Plaintiff,

v.

Chiari & Ilecki, LLP; and
DOES 1-10, inclusive,

COMPLAINT

Defendants.

For this Complaint, the Plaintiff, William Covell, Jr., by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of the Defendants' repeated violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), and the invasions of the Plaintiff's personal privacy by the Defendants and their agents in their illegal efforts to collect a consumer debt.

2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1337.

3. Venue is proper in this District pursuant to 28 U.S.C. § 1331(b), in that the Defendants transact business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

PARTIES

4. The Plaintiff, William Covell, Jr. ("Plaintiff"), is an adult individual residing in Jamestown, New York, and is a "consumer" as the term is defined by 15 U.S.C. § 1692a(3).

5. The Defendant, Chiari & Ilecki, LLP ("Chiari"), is a New York business entity

with an address of 14 Lafayette Square, Suite 1440, Buffalo, New York 14203, operating as a collection agency, and is a “debt collector” as the term is defined by 15 U.S.C. § 1692a(6).

6. Does 1-10 (the “Collectors”) are individual collectors employed by Chiari and whose identities are currently unknown to the Plaintiff. One or more of the Collectors may be joined as parties once their identities are disclosed through discovery.

7. Chiari at all times acted by and through one or more of the Collectors.

ALLEGATIONS APPLICABLE TO ALL COUNTS

A. The Debt

8. A person other than the Plaintiff allegedly incurred a financial obligation in the approximate amount of \$4,000.00 (the “Debt”) to Pinnacle Orthopedics (the “Creditor”).

9. The Debt arose from services provided by the Creditor which were primarily for family, personal or household purposes and which meets the definition of a “debt” under 15 U.S.C. § 1692a(5).

10. The Debt was purchased, assigned or transferred to Chiari for collection, or Chiari was employed by the Creditor to collect the Debt.

11. The Defendants attempted to collect the Debt and, as such, engaged in “communications” as defined in 15 U.S.C. § 1692a(2).

B. Chiari Engages in Harassment and Abusive Tactics

12. Chiari have filed a lawsuit against Plaintiff’s son, William James Covell, III and have obtained a judgment against him.

13. Plaintiff is not a co-signor on his son’s Debt and is in no way associated with the Debt.

14. However, Chiari instructed a sheriff's office in Jamestown, New York, to serve Plaintiff with documentation providing Plaintiff with two options: 1) to pay the Debt in full voluntarily or 2) to be subjected to wage garnishment.

C. Plaintiff Suffered Actual Damages

15. The Plaintiff has suffered and continues to suffer actual damages as a result of the Defendants' unlawful conduct.

16. As a direct consequence of the Defendants' acts, practices and conduct, the Plaintiff suffered and continues to suffer from humiliation, anger, anxiety, emotional distress, fear, frustration and embarrassment.

COUNT I
VIOLATIONS OF THE FDCPA - 15 U.S.C. § 1692, et seq.

17. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

18. The Defendants' conduct violated 15 U.S.C. § 1692e in that Defendants used false, deceptive, or misleading representation or means in connection with the collection of a debt.

19. The Defendants' conduct violated 15 U.S.C. § 1692e(2) in that Defendants misrepresented the character, amount and legal status of the Debt.

20. The Defendants' conduct violated 15 U.S.C. § 1692e(10) in that Defendants employed false and deceptive means to collect a debt.

21. The Defendants' conduct violated 15 U.S.C. § 1692f in that Defendants used unfair and unconscionable means to collect a debt.

22. The Defendants' conduct violated 15 U.S.C. § 1692f(6) in that Defendants

threatened to unlawfully repossess or disable the Plaintiff's property.

23. The foregoing acts and omissions of the Defendants constitute numerous and multiple violations of the FDCPA, including every one of the above-cited provisions.

24. The Plaintiff is entitled to damages as a result of Defendants' violations.

COUNT II
VIOLATIONS OF NEW YORK GBL § 349
ENGAGING IN UNLAWFUL DECEPTIVE PRACTICES AND ACTS

25. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully set forth herein at length.

26. The acts, practices and conduct engaged in by the Defendants and complained of herein constitute "deceptive acts and practices" within the meaning of Article 22A of the General Business Law of the State of New York, NY GBL § 349.

27. The Defendants willfully and knowingly engaged in conduct constituting deceptive acts and practices in violation of NY GBL§ 349.

28. The Plaintiff has suffered and continues to suffer actual damages as a result of the foregoing acts and practices, including damages associated with, among other things, humiliation, anger, anxiety, emotional distress, fear, frustration and embarrassment caused by the Defendants.

29. By virtue of the foregoing, the Plaintiff is entitled to recover actual damages, trebled, together with reasonable attorneys' fees.

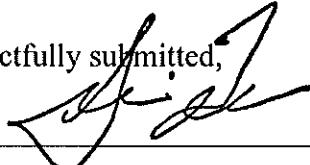
PRAYER FOR RELIEF

WHEREFORE, the Plaintiff respectfully prays that judgment be awarded in the Plaintiff's favor and against the Defendants as follows:

1. Against the named the Defendants, jointly and severally, awarding the Plaintiff actual damages pursuant to 15 U.S.C. § 1692k(a)(1);
2. Against each of the named the Defendants, awarding the Plaintiff statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A);
3. Against the named the Defendants, jointly and severally, awarding the Plaintiff actual damages, trebled, pursuant to NY GBL § 349;
4. Against the named the Defendants, jointly and severally, awarding the Plaintiff recovery of the costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3);
5. Against the named the Defendants, jointly and severally, awarding the Plaintiff punitive damages in such amount as is found appropriate; and
6. Granting the Plaintiff such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: July 9, 2012

Respectfully submitted,
By 

Sergei Lemberg (SL 6331)
LEMBERG & ASSOCIATES L.L.C.
300 International Drive, Suite 100
Williamsville, NY 14221
Telephone: (203) 653-2250
Facsimile: (203) 653-3424
Attorneys for Plaintiff